

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Turi Enterprises, LLC)
Dist. 9, Map 63B, Group B, Control Map 55P,) Washington County
Parcel 13.02, S.I. 000)
Commercial Property)
Tax Year 2005)

INITIAL DECISION AND ORDER DISMISSING APPEAL

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$87,000	\$696,100	\$783,100	\$313,240

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on April 11, 2006 in Jonesborough, Tennessee. In attendance at the hearing were David Lefemine, the appellant, and Washington County Property Assessor's representative, John Sims.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a vacant bank building purchased by the taxpayer on June 13, 2005.

The threshold issue in this appeal concerns jurisdiction. This issue arises from the fact that the disputed appraisal was not appealed to the Washington County Board of Equalization.

The administrative judge finds that Tennessee law requires a taxpayer to appeal an assessment to the County Board of Equalization prior to appealing to the State Board of Equalization. Tenn. Code Ann. §§ 67-5-1401 & 67-5-1412(b). A direct appeal to the State Board is permitted only if the assessor does not timely notify the taxpayer of a change of assessment prior to the meeting of the County Board. Tenn. Code Ann. §§ 67-5-508(a)(3) & 67-5-903(c). Nevertheless, the legislature has also provided that:

The taxpayer shall have right to a hearing and determination to show reasonable cause for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the [state] board shall accept such appeal from the taxpayer up to March 1 of the year subsequent to the year in which the assessment was made.

Tenn. Code Ann. § 67-5-1412(e). The Assessment Appeals Commission, in interpreting this section, has held that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of them. It was not the intent of the 'reasonable cause' provisions to waive these requirements except where the failure to meet them is due to illness or other circumstances beyond the taxpayer's control.

Associated Pipeline Contractors, Inc., Williamson County, Tax Year 1992, Assessment Appeals Commission (Aug. 11, 1994). See also *John Orovets*, Cheatham County, Tax Year 1991, Assessment Appeals Commission (Dec. 3, 1993). Thus, for the State Board of Equalization to have jurisdiction in this appeal, the taxpayer must show that circumstances beyond his control prevented him from appealing to the Washington County Board of Equalization.

The taxpayer testified that it was not until receiving his county tax bill in October of 2005 that he was prompted to appeal. The taxpayer proceeded to file a direct appeal with the State Board of Equalization that was received on January 6, 2006.

Respectfully, the administrative judge finds the taxpayer failed to establish that his failure to appeal to the county board of equalization resulted from circumstances beyond his control. Indeed, it appears that simple inattentiveness constituted the underlying problem. The administrative judge would initially observe that the taxpayer had actual notice of the property taxes on or before June 13, 2005 because the taxes were prorated as evidenced by the closing statement appended to the appeal form.¹ Moreover, the taxpayer inexplicably waited several months after receiving his tax bill to even initiate this appeal.

The administrative judge finds that the Assessment Appeals Commission rejected a similar argument in *Gerald D.F. Hollenbeck* (Shelby Co., Tax Years 2001-2003) reasoning in pertinent part as follows:

The subject property is a residence located at 1052 Mirror Lake Lane in Cordova. The taxpayer did not own it as of January 1, 2002, and according to Mr. Cook the taxpayer did not become aware of the assessed value until taxes were billed in the fall of 2002. The only reason offered for the failure to appeal the assessment first to the county board of equalization, was that the taxpayer did not understand or was not aware of the requirement.

As the administrative judge found, relief from the requirement of prior appeal to the county board of equalization or of the deadline for appeal to the State Board, depends upon a finding of reasonable cause excusing the failure. Tenn. Code Ann. § 67-5-1412(e). Findings of reasonable cause in other cases have generally been predicated on some circumstances beyond the control of the taxpayer rather than simply being unaware of the legal requirements for appeal. The testimony in this case does

¹ The administrative judge is in no way suggesting that ignorance of one's tax liability constitutes a basis for finding reasonable cause.

not provide a basis for a finding of reasonable cause, and the initial decision and order should be affirmed.

Final Decision and Order at 1. See also *Appeal of Plastic Extrusions, Inc.* (Lewis Co., Tax Years 1990 & 1991) wherein the Commission held that “[a] taxpayer . . . cannot prevent the imposition of reasonable deadlines for appeal by pleading the press of other business or lack of awareness of the manner or necessity of appeal.” Final Decision and Order at 2.

Based upon the foregoing, the administrative judge finds the taxpayer failed to establish reasonable cause and this appeal must therefore be dismissed for lack of jurisdiction.

ORDER

It is therefore ORDERED that this appeal be dismissed for lack of jurisdiction and the following value and assessment remain in effect for tax year 2005:


<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$87,000	\$696,100	\$783,100	\$313,240

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 20th day of April, 2006.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. David Lefemine
Monty Treadway, Assessor of Property